Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

No. _____

In The
Supreme Court of the United States
October Term, 1997

IVAN SAWCHYN

Petitioners,

v.

SCOTTSDALE INSURANCE CO., et al,

Respondents.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Sixth Circuit

PETITION FOR A WRIT OF CERTIORARI

Ivan Sawchyn, Pro Se
Counsel of Record

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27 pp

QUESTIONS PRESNETED

1. Whether both a District Court Judge and the 6th Circuit Appellate Court can dismiss a case without so much as a hearing when written evidence was represented to the District Court that a Cuyahoga County Common Pleas Judge accepted a bribe to delete two $10,000 judgements which were the result of passion and prejudice can be accepted as a function of the court?

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TABLE OF AUTHORITIES

Introduction paragrah to the U.S. Constitution, "We the People of the United States in order to form a more perfect Union" clearly makes no provision that a Judge proven to have taken a bribe or sold for cash relief from fines he imposed, is to be accepted as legal by a U.S. District Court and the 6th Circuit Appellate Court.

STATEMENT OF JURISDICTION

The indisputable fact which require no statement of statutory authority that corrupt judgements pre-arranged between an attorney and a corrupt bribe takingJudge is illegal.

STATEMENT OF THE CASE

Trial Judge James J. Sweeney in Civil Case CV 193983 assigned a retired Judge Robert Feighan to conduct a hearing for attorney fees on a remand from the 8th Appellate Court of Ohio. Opposing attorneys for the Defendant City of Middleburg Heights prevailed on Judge Sweeney's administrator Greg Popovich to take the hearing from Judge Feighan and give it to attorney Peter Hull's good friend, also retired Judge Frank J. Gorman with an assurance that a favorable verdict would be given to his side which was divulged to petitioner by another attorney who did not want to get involved in a case against a judge but who knows attorney Hull and Judge Gorman very well and told petitioner "Hull and Gorman are very good friends, so expect a judgement against you."

After 5 days, Judge Gorman fined petitioner $10,000 for abuse of process and awarded some $11,500 attorney fees plus some $900 for an "expert witness". Petitioner filed a NOTICE OF APPEAL with the 8th Appellate Court of Ohio. More than 60 days after the notice of appeal was filed, Judge Gorman out of a presumed request by attorney Alan E. Johnson, levied another $10,000 fine for "Abuse of Process", plus another $10,000 fine for "filing a frivolous law suit in violation of ORC 2323.51". Not only were these fines the result of passion and prejudice but were illegal as a notice of appeal had been filed. Petitioner's attorney at the time didn't know these fines were illegal so he recommended petitioner pay them. See copy of attorney Peter Onysko's letter and Judge Frank J. Gorman's journal entry.

Defendants garnished petitioner's bank account for $4075 in December 1993 and placed a judgement lien on his home.

THE PETITIONERS

Petitioner Ivan Sawchyn was compelled to act pro se as no attorney would take on a case against a sitting Judge such as in this case and numerous other Judges and high public officials who are in addition to primary Defendant Judge Frank J. Gorman.

REASONS FOR GRANTING THE PETITION

This case is as corrupt in all it's aspects as the case in the middle to late 1980's where the FBI conducted it's "Operation Greylord" in Chicago's Cook County Common Pleas Court. Where among the some 87 defendants were 16 judges who accepted bribes and engaged in numerous other improprieties in fixing cases, dismissing them in favor of the "paying" party, etc.

In this case it is not the least bit questionable that after trial Judge James J. Sweeney assigned this case which was remanded by the 8th Appellate Ohio Court for a hearing on attorney fee to retired Judge Robert Feighan who is an honest judge, had it taken away from him by the admission of attorneys Peter Hull and Alan E. Johnson and assigned to Hull friend Judge Frank J. Gorman. This was done by prevailing on Judge Sweeney's administrator Greg Popovich. Sweeney was the Chief Judge of Common Please at the time and had an administrator.

Efforts to get Popovich to deny Gorman this hearing were ignored and an affidavit of disqualification filed pursuant to Ohio Law was denied by defendant Chief Justice Thomas Moyer of the Ohio Supreme Court.

The result was this sham hearing of 5 days in front of Judge Gorman which was appealed but the only assignments of error reversed was the award of witness fees to a witness.

The District Court Judge dismissed this case without so much as a hearing.

It is the petitioner's understanding that the Supreme Court will ask for the complete trial transcripts

This case was appealed to the Sixth Circuit Appellate Court which dismissal was confirmed and an EN Banc motion also confirmed the dismissal.

CONCLUSION

The petition for a writ of Certiorar shouldb egranted as a matter of law.

Respectfully submitted,

IVAN SAWCHYN, Pro Se
Petitioner Appellant
14410 Uhlin Drive
Middleburg Heights, Ohio 44130
(440) 842-8640

APPENDIX

Appendix 1

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

CASE NO. 1:96CV2229

IVAN SAWCHYN, Plaintiff,

v.

SCOTTSDALE INSURANCE CO., et al., Defendants.

MEMORANDUM OF OPINION
Judge John M. Manos

On October 15, 1996, Ivan Sawchyn, plaintiff, filed the above-captioned action *pro se* against twenty defendants alleging "denial of numerous instances where his civil rights as assured by the U.S. Constitution and Section 1983 of 42 U.S.C. by Judges and State Courts." He seeks $1,500,000 in compensatory damages and $500,000 in punitive damages. Jurisdiction is predicated upon 28 U.S.C. § 1331.

The defendants have filed six separate Motions to Dismiss.[1] Sawchyn has filed his responses. For the following reasons, all motions to dismiss are hereby GRANTED.

[1] On November 14, 1996, Sawchyn filed a mOtion to Dismiss Defendent Peter Onysko from this action, alleging that he never served Onysko with the Complaint. Noting that Onysko has not filed an answer or a responsive pleading, the Court hereby GRANTS Sawchyn's motion. See Fed. R. Civ. P. 41(a)

App. 2

I. FACTS

A. THE UNDERLYING STATE PROCEEDINGS[2]

In July 1990, Sawchyn filed a *pro se* complaint in the Cuyahoga County Court of Common Pleas ("Court of Common Pleas") against the City of Middleburg Heights, its Law Director, Peter Hull, and its Council President, Bonnie White, alleging intentional infliction of emotional distress, malpractice, and wrongful refusal to rezone realty. He sought both compensatory and punitive damages. The defendants, through National Casualty Company ("National Casualty"), their public officials' liability insurance carrier, retained the law firm of Leo Ward and Associates ("Ward & Associates") to represent them.

Ward and Associates filed amotion to dismiss the action and a motion for sanctions, requesting that the court order Sawchyn to pay the defendants' attorney fees. On September 14, 1990, the court granted the motion for attorney fees was denied. Both parties appealed the decision.

On July 13, 1992, the Court of Appeals for the Eight District ("Court of Appeals") affirmed the dismissal, but reversed the denial of attorney fees and remanded the case for a hearing pursuant to Ohio Revised Code ("O.R.C.") § 2323.51.[3]

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[2] The facts surrounding the state proceedings were derived from the opinion of Ivan Sawchyn v. City of Middleburg Heights, No. 66687, slip op. at 3-7 (Ohio Ct. Appl October 10, 1995), of which the Court takes judicial notice. See Scarso v. Cuyahoga Cty. Dep't of Human Serv.747 F. Suppl. 381,386 (N.D. Ohio 1989), aff'd in part and reversed in part on other grounds, 917 F2d 1305 (6th Cir. 1990)

[3] That statute provides in part : "[A]t any time prior to commencement of the trial in a civil action or within twenty one days after the entry of judgment in a civil action, the court may award reasonable attorney's fees to any party to that action adversely affected by frivolous conduct O.R.C. § 2323.51 (B)(1). In addition to defining "frivolous conduct" in language that substantially tracks that of Federal Rule of Civil Procedure 11, the statute requires the court to conduct a hearing to determine whether particular conduct was frivolous, whether

The hearing on attorney fees was eventually scheduled for October 4, 1993. As the date approached, Sawchyn sent several letters to Middleburg Heights officials and to Ward & Associates threatening to institute further legal action (including the initiation of criminal proceedings against Hull and White) unless the motion for attorney fees was withdrawn.[4] He also served interrogatories and requests for admissions on Timothy Pope, Middleburg Heights Finance Director, who was not a party to the action.

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any party adversely affected thereby, and the amount, if any, of the fee award. O.R.C. ¶ 2323.51(A)(2), (B)(1)-(5).

[4] In a September 1, 1993 letter to Tim Pope, Finance Director for Middleburg Heights, Sawchyn wrote: "If Hull and White haven't paid the city [for their defense] then in my opinion it will require a criminal investigation and I don't think you have any doubts that I will initiate the same." The following day, Sawchyn sent a letter to the Middleburg Heights City Council, writing:

[A]fter thorough [sic] investigation I have good legal reason to form the opinion that Mr. Hull, White and our good Mayor are engaged in a felony in defrauding the city and attempting to defraud me...I'm going to give you a choice. Either you send me a letter confirming that you are directing that this October 4[,] 1993 hearing is called off or I will ask the attorney general to investigate what in my opinions is defrauding the city and use of public money.

On September 3, 1993, Sawchyn wrote Ward & Associates:

> [U]nless I get a written letter confirming my demand to call off this Oct 4, 1993 "hearing", I am going to make a complaint to the Ohio Attorney General and demand a criminal investigation of the fact that MH taxpayers [sic] money is being pilfered to pay legal fees for Hull and White.

On September 5, 1993, Sawchyn wrote councilmember Barbara Becker and again threatened to institute criminal proceedings:

> [I]f I don't have a written commitment [sic] by Weds 9/8/93 [to withdraw the motion for attorney fees] I will send the attorney general of Ohio a letter I already have prepared demanding a criminal investigation of the goings on in this regime...If not as I 've already warned there will be another law suit against the city and probably some of it's [sic] public officials.

Finally, in a September 17, 1993 letter to Council, Sawchyn suggested that

On October 4, 1993, the hearing did not go forward as scheduled; instead, the case was reassigned to a visiting judge. The hearing was rescheduled for October 17, 1993.

During this brief period, Sawchyn filed three separate motion to dismiss the proceedings. He also filed his own motion for sanctions and /or attorney fees. The defendants responded to each of the motions and, prior to the hearing, filed a supplemental motion pursuant to O.R.C. § 2323.51 for the additional fees incurred during the pendency of the proceedings.

On October 17, 1993, the hearing commenced before Judge Frank J. Gorman. Sawchyn requested a continuance to file an affidavit of disqualification against the judge.[5] After assuring Sawchyn that he was not biased or prejudiced against him, the judge denied the motion.

Despite this ruling, the following day Sawchyn filed an affidavit of disqualification with the Ohio Supreme Court, alleging that Judge Gorman was biased against him. On October 24, 1993, the Ohio Supreme Court found that the allegations were "without merit" and denied the affidavit. In addition, the Court, after noting that Sawchyn had filed 17 affidavits of qualification since 1986 against various judges, none of which were found to have merit, "strongly cautioned" him against any further frivolous filings. Two weeks after receiving this ruling, he filed

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Hull be replaced as Law Director by another councilmember and that he be appointed to the empty council seat:

For the last several weeks I've been sending numerous letter to Mary Ann George to give to all members of council. I have made a good faith effort to try and avoid embarrassing [sic] MH any further because I'm hand carrying a complaint to the Cuyahoga Count Prosecutor today and sending a copy to attorney Mary Ann Neal in the Auditing Div of the Attorney General's office in Columbus...It is my suggestions that council dismiss [Hull] and appoint [Caterini] as the new law director...PS -- appoint me to succeed you in Council.

[5] The record does not establish the basis for Sawchyn's concern of bias or prejudice.

another motion for continuance requesting that Judge Gorman disqualify himself.

On November 26, 1993, the court granted the motion for sanctions. Concluding that Sawchyn had maliciously filed suit to avenge his prior unsuccessful bid for City Council, for which be blamed Hull and white, the court awarded the defendants $15,246.76 in attorney fees ($2,287.55 for the initial dismissal; $12,959.21 to pursue the motion for fees)[6] The court also imposed a $10,000 fine against Sawchyn pursuant to Civil Rule 11 for "interfering with the administration of justice." On November 30, 1993, the court filed a journal entry reflecting the ruling. On December 28, 1993, Sawchyn appealed.[7]

On September 28, 1995, the Court of Appeals affirmed the decision to award sanctions. Ivan Sawchyn v. City of Middleburg Heights. No. 66687, slip op at 7-11 (Ohio Ct. App. October 10,1995). The court upheld the conclusion that Sawchyn acted frivolously by (1) bringing the initial action which was not warranted under existing law); and (2) filing three unsupported motions to dismiss, repeatedly requesting con-

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[6] The court found that the letters Sawchyn sent to the City and to Ward & Associates, specifically the one in which he sought to be appointed to council, were strong evidence that he was acting to avenge his defeat. The record also showed that Sawchyn had earlier filed an identical action against Middleburg Heights regarding the same zoning dispute that he had lost on the merits.

[7] On February 9, 1994, the trial court filed a second set of journal entries, granting defendants; motion for fees and fining Sawchyn $10,000 for 'abuse of process." On March 4, 1994, a third set of journal entries were filed, granting defendants' motion for fees in the amount of $15,246.76 and imposing a fine of $10,000 against Sawchyn for "interference with the administration of justice and abuse of power.

On appeal, the Court of Appeals ruled that the second and third judgement entries, made after Sawchyn filed his notice of appeal, were void for lack of jurisdiction. Additionally, on May 22, 1995, the trial court filed a judgement

tinuances, and filing multiple disqualifications motions.[8]

However, the court reduced the award of fees to $10,000, the amount of the City's deductible.[9] In addition, the court reversed the trial court's *sua sponte* imposition of a $10,000 fine against Sawchyn, holding that due process required that he first be afforded notice and a hearing, and remanded the case back to the trial court[10] The issue of Rule 11 sanctions remains pending before the Court of Common Pleas.

B. THE COMPLAINT

On October 15, 1995, Sawchyn filed this action, entitled "Complaint: Plaintiff Alleges Denial of Numerous Instances Whereby his Civili Rights as Assured by the U.S. Constitution and Section 1983 of 42 U.S.C.

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entry of clarification, indicating that only one fine of $10,000 was imposed against Sawchyn.

[8] To rebut any claim of good faith or lack of malicious intent, the court heard evidence that Sawchyn had fled over twenty lawsuits in the preceding years, all of which were unsuccessful.

[9] At the hearing, the trial court had *sua sponte* ruled that the defendants had standing to recover funds paid my National Casualty, its insurance carrier, for attorney fees exceeding the City's $10,000 deductible. The Court of Appeals reversed this decision, concluding that the defendants did not have a "personal stake" in the fees expended by National Casualty, and, thus, lacked standing to recover anything above $10,000. Instead, the court noted that National Casualty should have filed a motion to intervene.

[10] While recognizing that trial courts possess substantial discretion in assessing sanction for violation of Civil Rule 11, the cort held that minimum due process safeguards must be afforded the offending party to challenge the basis and reasonableness of the sanction prior to imposition. In this case, while Sawchyn was heard in relation to attorney fees, he was not afforded an opportunity to address this additional sanction. Further, the court found that the trial court, in arriving at the $10,000 figure without discussion, had not considered Sawchyn's ability to pay or determined that the amount would serve the desired deterrent effect.

by Judges and State Courts," against twenty separate defendants: Peter Hull; Ward & Associates, along with its individual attorneys, Leo Ward, Alan E. Johnson, David Daddona, and Dianna M. Anelli (collectively the "Ward defendants"); National Casualty Company, Scottsdale Insurance Company,[11] and two employees, Seymour Gains and Max Williamson (collectively the "Ohio Supreme Court defendants"); Peter Onysko;[12] and Berea Municipal; Court Judge Mark A. Comstock.

The Complaint is comprised of wild and unsupported accusations of wholesale judicial corruption spanning all levels of the Ohio state court system. According to Sawchyn, Judge Frank J. Gormaan (and the entire Court of Common Pleas), the Court of Appeals, Chief Justic Thomas J. Moyer (and the entire Ohio Supreme Court), the Disciplinary Counsel, state administrators, Wared and Associates, National Casualty, Scottsdale Insurance, and Hull, all colluded together in order to deprive him of his "civil rights" by assessing sanctions against him.[13]

All defendants (save one have filed a Motion to Dismiss.[14]

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[11] The corporate relationship between National Casualty and Scottsdale Insurance Company is not clear; however, all parties refer to both interchangeable and the Court's analysis applies equally to both.

[12] As previously noted, Onysko has been voluntarily dismiss fromt he case. see supra n.1.

[13] Additionally, Sawchyn, in numerous pleadings filed with the Court, repeatedly refers to "Operation Greylord" as evidence of judicial corruption:

> Plaintiff brings to the Federal Court's attention a long simmering problem of bribes to Judges [sic] about 135 Judges, court employees, prosecutors, and attorneys were given penitentary [sic] sentences. The same thing [sic] occurs in probably most of the Nation [sic] courts but does not

II. STANDARD OF REVIEW

Under Federal Rule of Civil Procedure 12(b)(6), a complaint fails to state a claim upon which relief can granted if "it appears beyong a doubt that the plaintiff can prove no set of facts in support of his claim which would entitle relief." Conley v. Gibson, 355 U.S. 41, 45-46 (1957). The complaint is to be construed in the light most favorable to the plaintiff and all factual allegations are to be considered as true. Scheuer v. Rhodes, 416 U.S. 232 (1974).

III. ANALYSIS

1. Federal Rules of Civil Procedure 8(a) and 12(b)(6)

The Court finds that the Complaint does not comply with the Federal Rules of Civil Procedure. Rule 8(a) prescribes the following requirements to state a valid claim:

> A pleading which sets forth a claim for relief...shall

> come out as Operation Greylord doe in the the FBI doesn't get involved. Plaintiff recommended numerous times both the Trial Court and the Eight Appellate Court to ask the FBI to investigate this but they just totally ignore it.

(Complaint at ¶ 14)

[14] Judge Comstock has not filed a motion to dismiss. However, on November 14, 1996, Sawchyn filed a motion requesting the Court to rule on the propriety of Judge Comstock as a defendant. The Court hereby GRANTS that motions, and will dismiss Judge Comstock (along with the other defendants) for the reasons that follow.

> contain (1) a short and plain statement of the grounds upon which the court's jurisidiction depends...(2) a short and plain statement of the claim showing that the pleader is entitled to relief, and (3) a demand for judgment for the relief the pleader seeks.

Fed. R. Civ. P. 8(a).

Outside of repeated references to 42 U.S.c. § 1983 randomly scattered throughout, the Complaint does not contain a statement of grounds upon which jurisdiction rests. Nor ddoes it contain a "short and plain statement of the claim showing that the pleader is entitled to relief." For these reasons, the Complain is subject to dismissal.

Sawchyn has not presented his claim (or claims) in an articulable and intelligent fashion such that the defendants are provided with "fair notice of what the plaintiff's claim is and the grounds upon which it rests." Conley v Gibson, 355 U.S. 41,47 (1957). The Complaint, containing fourteen lengthy paragraphs, is rambling, redundant, and oftern nonsensical. Whiole *pro se* pleadings are held to a less stringent standard than those drawn by counsel, they must nonetheless meet minimal standards. See Holsey v. Collins, 90 F.R.D. 122, 128 (D. Md. 1981).

Additionally, Sawchyn has not shown that the allegations, even if true entitle him to relief. See Fed. R. Civ. P. 8(a) & 12(b)(6). In order to state a claim, § 1983 litigants have the burden of allegining two elements with factual detail: (1) that they suffered a deprivation of rights, privileges or immuities secured by the Constitution and laws of the United States; and (2) that a person acting under color of state law caused the deprivation, either by an act or omission. Ross v. Alabama, 893 F. Supp. 1545, 1553 (M.D. Ala. 1995)(internal citations omitted) Sawchyn has not alleged either element.

"Section 1983 is not itself a source of substantive rights, but merely provides a method for vindicating federal rights elsewhere conferred. The first step in any such claim is to identify the specific constitutional [or federal statutory] right allegedly infringed." Albright v. Oliver, 114 S.

Ct. 807, 811 (1994)(internal citations omitted). While the Complaint repeatedly refers to denials of Sawchyn's "civil rights," it doe snot identify the specific consitutional or statutory rights allegedly violated by the defendants.

Likewise, the Complaint does not allege that the defendants were"acting under color of state law" at the time of the elleged deprivation. The Court may assume *arguendo* that the "judicial" defendants, while acting in their official capacity, were clothed with the power of the State; however, this assumption doe snot apply to the Ward and National Casualty defendants. Sawchyn has not alleged (not do the facts support the conclusion) that these non-judicial defendants, by utilizing the judicial process, were "acting under color of state law."

Thus, the Court finds that the Complaint violates Federal Rule of Civil Procedure 8(a) and does not state a claim for which relief can be granted. See Fed. R. Civ. P. 12(b)(6).

2. Subject Matter Jurisdiction

The Court also finds that it lacks subject matter jurisdiction over the action.

In addition to multimillion dollar damages, Sawchyn prays this Court to void the state court judgments dues to alleged "improperties." United States District Courts have no jurisdiction over a an action brought by a party defeated in the state courts against his successful opponents to set aside the judgment as void due to errors allegedly made by the state courts. Rooker v. Fidelity Trust Co., 263 U.S. 413, 416 (1923). This principal holds true even if the plaintiff contends that the state courts' action with unconstitional;

> United States District Courts...do not have [subject matter] jurisidiction...over challenges to state court decisions in particular cases arising out of judicial proceedings even if those challenges allege that the state court's action was unconstitutional. Review of those decisions may be had

only in the [United States Supreme] Court.

D.C. Court of Appeals v. Feldman, 460 U.S. 462, 486 (1983).

The Court finds that the Complaint does no comply with the Federal Rules of Civil Procedure and that is lacks subject matter jurisdiction over the action.[15]

Accordingly, all Motions to Dismiss are hereby GRANTED.[16]

IT IS SO ORDERED.

UNITED STATES DISTRICT JUDGE
Signature

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[15] Due to the Court's decision to dismiss the action, the individual arguments made by each group of defendants (such as Eleventh Amendment immunity, judicial immunity, lack of standing, etc.) need not be separetely addressed.

[16] On November 14, 1996, Sawchyn filed a Motion for Leave to amend Pleadings and Add Necessary and Indispensable Parties, seeking to add six new defendants in order to "unambiguosly and more strongly prove the collusion between attorneys and judges and plaintiff being denied a fair and impartial trial and being the victim of extortion in this case and other cases in the Cuyahoga County Common Pleas and the Eight Appellate Court." On November 19, 1996, he filed the identical motion again. For the reasons given in this Opnion, both Motion are hereby DENIED.

No. 97-3046
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

IVAN SAWCHYN Plaintiff-Appellant,

SCOTTSDALE INSURANCE COMPANY, et al.,
Defendants-Appellees.

Before: MERRIT, BATCHELDER, and FARRIS, *Circuit Judges

Ivan Sawchyn, a pro se Ohio resident, appeals a district court order dismissing his civil rights complaint filed pursuant to 42 U.S.C. § 1983. This case has been referred to a panel of the court pursuant to Rule 9(a), Rules of the Sixth Circuit. Upon examination, this panel unanimously agrees that oral argument is not needed. Fed. R. App. P. 34(a).

Seeking monetary relief, Sawchyn sued multiple insurance companies, Ohio judges, Ohio courts, state court officials, and attorneys concerning an award of attorneys' fees and sanctions which were imposed against him. Sawchyn alleged wholesale corruption throughout Ohio's judicial system and that the defendants conspired to deprive him of his civil rights by assessing the sanctions. The district court dismissed Sawchyn's complaint because it failed to comply with Fed. R. Civ. P. 8(a), for failure to state a claim under Fed. R. Civ. P. 12(B)(6), and for lack of subject matter jurisdiction under Fed. R. Civ. P. 12(b)(1).

In his timely appeal, Sawchyn's rambling brief continues to argue his conspiracy theory. Sawchyn also asserts that the district court judge is now a part of this judicial collusion. Sawchyn requests that this court order the appellees to respond to his offer of settlement.

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* The Honorable Jerome Farris, United States Circuit Judge for the Ninth Circuit, sitting by designation.

This court reviews the district court's order do novo. *Ynclan v. Department of Air Force,* 943 F. 2d 1388, 1390 (5th Cir. 1991).

Upon review, we conclude that the district court properly dismissed the complaint for lack of subject matter jurisdiction. Sawchyn claims that the imposition of sanctions and attorneys' fees by the state courts of Ohio violated his constitutional rights. However, district courts do not have subject matter jurisdiction over challenges to state court decisions arising out of judicial proceedings even if those challenges allege that the state court's action was unconstitutional. Review lies only with the United States Supreme Court. *District of Columbia Court of Appeals v. Feldman,* 460 U.S. 462, 486 (1983); *Blanton v. United States*, 94 F.3d 227, 223 (6th Cir. 1996). As Sawchyn's complaint clearly challenges the decisions of the state courts of Ohio, the district court properly dismissed the complaint for lack of subject matter jurisdiction. As the district court lacked subject matter jurisdiction of the case, the district court was not required to dismiss the case under Rule 8(a) and Rule 12(b)(6).

Accordingly, we deny Sawchyn's motion to order the appellees to respond to his offer of settlement and affirm the district court's order. Rule 9(b)(3), Rules of the Sixth Circuit.

ENTERED BY ORDER OF THE COURT

Signature

Clerk

No. 97-3046
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

IVAN SAWCHYN Plaintiff-Appellant,

SCOTTSDALE INSURANCE COMPANY, et al.,
Defendants-Appellees.

Before: MERRIT, BATCHELDER, and FARRIS, *Circuit Judges

The court having received a petition for rehearsing en banc, and the petition having been circulated not only to the original panel members but also to all other active judges of this court, and no judge of this court having requested a vote on the suggestion for rehearing en banc, the petition for rehearing has been referred to the original panel.

The panel has further reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. Accordingly, the petition is denied.

ENTERED BY ORDER OF THE COURT

Signature

Leonard Green, Clerk

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*The Honorable Jerome Farris, United States Circuit Judge for the Ninth Circuit, sitting by designation.

App. 15

May 2, 1995

Paul E. Meyer
2858 West Market Street, Suite C
Akron, Ohio 44333

Re: Onysko vs Sawchyn, Cuyahoga County 2721246

On April 28, 1995 we talked by telephone and you suggested that trial of the above case be continued from its scheduled date of May 9th so as to allow the Court of Appeals time to pass on the assignments of error presented by Sawchyn as to the rulings made by Judge Frank Gorman. You also indicated that it would allow our settlement negotiations to continue.

You further indicated that the only obstacle to settlement that the judgment entries signed by Judge Gorman indicated a court fine in each of three entries of $10,000.00 whereas only a single fine of $10,000.00, for abuse of judicial process, had been intended. You further indicated that if a "meaningful reduction" is achieved in either the amount of attorney fees awarded, or in the fines levied, you would recommend that Sawchyn settle my lawsuit for the sum of $4,000.00, and pay said sum of $4,000.00 and court costs as well as a dismissal of his counterclaim with prejudice. I would insist that a judgment be granted to me.

Yesterday I saw Judge Villanueva and he refused to continue the trial and he said it was because of the type of person Sawchyn is, as demonstrated by the fact that he had 22 pro se filings in the last 10 years. So be prepared to appear for trial on May 9th.

I also saw Judge Gorman and he would be cooperative in clarifying the journal entries so that only one fine of $10,000.00 could be collected. He made it clear that he was doing it for me. So, if you could get Sawchyn to sign a journal entry granting me judgment for $4,000.00 and costs, and granting me judgment on the counter-claim, I can achieve the "meaningful reduction" you had indicated.

I would hold the corrective journal entry signed by Judge Gorman and you would hold the judgment in my favor until we have a chance to exchange them, perhaps on May 9, 1995.

Please advise as soon as possible.

Very truly yours,
Signature
Peter Onysko

App. 16

Case No. 193983
Judge Frank J. Gorman

JUDGMENT ENTRY OF CLARIFICATION

Ivan Sawchyn Plaintiff
vs.
City of Middleburg Heights, et al

This court has, by judgment entry filed on November 30, 1993, and recorded in Volume 1687, page 782 of the Journal of this court, fined the plaintiff, Ivan Sawchyn, the sum of Ten Thousand Dollars ($10,000.00) for abuse of judicial process.

It has been called to this court's attention that there are two subsequent journal entries each fined plaintiff the sum of Ten Thousand Dollars ($10,000.00). It thus appears that plaintiff has been fined the total sum of Thirty Thousand Dollars ($30,000.00).

Such was not the intention of this court. It was the intent of this court to fine plaintiff the total sum of $10,000.00 and not Thirty Thousand Dollars ($10,000.00) as it presently appears.

In clarification thereof this court orders that there be only one fine of Ten Thousand Dollars and that any order subsequently to November 30, 1993 levying additional fines of Ten Thousand Dollars ($10,000.00) be held for naught. However, the court orders that all other sanctions remain in full force and effect. It is so ordered.

Signature

Frank J. Gorman, Judge

U.S. District Court Northern District of Ohio (Cleveland)
Civil Docket for Case #: 96-CV-2229

Sawchyn v. Scottsdale Ins Co, et al
Assigned to : Judge John M. Manos
Demand: $0,000
Lead Docket: None
Dkt# in other court: None

Jury Demand: Both
Nature of Suit: 440
Jurisdiction: Federal Question

Cause: 42: 1983 Civil Rights Act

Ivan Sawchyn plaintiff	Ivan Sawchyn [COR LD NTC] [PRO SE] 14410 Uhlin Dr. Middleburg Heights, OH 44130
v.	
Scottsdale Insurance Co. defendant	James A. Cliver, Esq. [COR LD NTC] Todd M. Raskin, Esq. [COR LD NTC] Mazanec, Raskin & Ryder 100 Franklin's Row 3405 Solon Road Solon, OH 44139 216-248-7906 FTS 248-8861
National Casualty Co.	James A. Climer, Esq. (See Above) [COR LD NTC] Todd M. Raskin, Esq. (See Above) [COR LD NTC]
Seymour Gaines aka Cy Gaines defendant	James A. Climer, Esq. (See Above) [COR LD NTC] Todd M. Raskin, Esq. (See Above)[COR LD NTC]
Max Williamson defendant	James A Climer, Esq. (See above) [COR LD NTC]

	Todd M. Raskin, Esq. (See above) [COR LD NTC]
FRANK J GORMAN, Judge defendant	Steven William Ritz, Esq. 216-443-7785 [COR LD NTC] Michael P. Butler, Esq. 216-443-7781 [COR LD NTC] Office Of The Prosecuting Attorney Justice Center, Courts Tower 1200 Ontario Street Cleveland, OH 44113
PETER ONYSKO defendant	
CUYAHOGA COUNTY COURT OF COMMON PLEAS defendant	Steven William Ritz, Esq. (See above) [COR LD NTC] Michael P. Butler, Esq. (See above) [COR LD NTC]
EIGHTH APPELLATE COURT OF OHIO defendant .	Steven William Ritz, Esq. (See above) [COR LD NTC] Michael P. Butler, Esq. (See above) [COR LD NTC]
THOMAS J MOYER defendant	Olivia O. Singletary, Esq. [COR LD NTC] Office Of The Attorney General Chief Counsel's Staff 30 East Broad Street 17th Floor Columbus, OH 43215-3428 614-466-2872
STEPHEN W STOVER defendant	Olivia O. Singletary, Esq. (See above) [COR LD NTC]
OHIO SUPREME COURT defendant	Olivia O. Singletary, Esq (See above) [COR LD NTC]

MARK A COMSTOCK
defendant

Gregory M. Sponseller, Esq.
[COR LD NTC]
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Department Of Law
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Berea, OH 44017
216-826-5800

Jeffrey W. Largent, Esq.
[COR LD NTC]
Largent & Comstock
101 Plaza South Three Bldg.
Middleburg Heights, OH 44130
216-816-0600

ALVIN E MATHEWS, defendant

SUPREME COURT DISCIPLINARY COUNSEL, defendant

WARD & ASSOCIATES, defendant

LEO WARD, defendant

ALAN E JOHNSON, defendant

DAVID DADDONA, defendant

DIANNA M ANELLI, defendant

PETER HULL, Law Director
defendant

Peter H. Hull, Esq.
Law Director
[COR LD NTC]

City Of Middleburg Heights
15700 Bagley Road
Middleburg Heights, OH 44130
216-234-8811

10/15/96 -- FILING FEE: on 10/16/96 in the amount of $120.00, receipt # 241000. (bang) [Entry date 10/16/96]

10/15/96 -- ASSIGNMENT OF MAGISTRATE JUDGE pursuant to Local Rule 1:2.4, Assignment of Cases. In the event of referral this case will be referred

to Meg. Judge David S. Perelman . 1 pg (dh) [Entry date 10/21/96]

10/15/96 1 COMPLAINT: pltf alleges denial of numerous instances where his civil rights as assured by the US Constitution & sec 1983 of 42 USC by judges ~ state courts; jury demand (Service: summons issd, magistrate consent form issd) (attach & 6 pgs) (dh) [Entry date 10/21/96]

10/15/96 2 CIS filed by pltf Ivan Sawchyn . Recommended Track: Standard. (2 pgs) (dh) [Entry date 10/21/96]

10/15/96 3 INITIAL ORDER re filing procedures. (issued on 10/15/96) (4 pgs) Judge John M. Manos (dh) [Entry date 10/21/96]

10/22/96 4 NOTICE OF WAIVER OF SUMMONS returned executed upon clefts Ward & Associates, Leo Ward,Alan E Johnson, David Daddona,& Dianna M Anelli on 10/22/96 (3 pgs) (dh) [Entry date 10/23/96]

10/22/96 5 ANSWER to Complt by clefts Ward & Associates, Leo Ward, Alan E Johnson, David Daddona, & Dianna MAnelli; jury demand (7 pgs) (dh) [Entry date 10/23/96]

10/22/96 6 MOTION by defts Ward & Associates, Leo Ward, Alan E Johnson, David Daddona, Dianna M Anelli to dismiss complaint against them w/memo in supp. (exh & 14 pgs) (dh)[Entry date 10/23/96]

10/30/96 7 MOTION by deft Peter Hull for enlarg of time until 12/4/96 to answer or otherwise defend (3 pgs) (dh)[Entry date 10/31/96]

10/30/96 8 NOTICE OF SERVICE by deft Peter Hull of response to deft's 1st set of interr & requests for admission upon pltf on 10/30/96. (3 pgs) (dh) [Entry date 10/31/96]

11/4/96 9 RETURN OF SERVICE executed upon clefts Scottsdale Ins Co, National Casualty Co, Seymour Gaines, & Max Williamson on 10/25/96 by UPS (4 pgs) (dh) [Entry date 11/05/96]

11/4/96 10 RETURN OF SERVICE executed upon deft Peter Hull thru Jan Brocklehurst, see, on 10/16/96 (1 pg) (dh)[Entry date 11/05/96]

11/4/96 11 RETURN OF SERVICE executed upon clefts Ward & Associates, Leo Ward, Alan E Johnson, David Daddona, & Dianna M Anelli thru deft Peter Hull on 11/4/96; these 5 clefts filed a waiver of srv on 10/22/96. (5 pgs) (dh) [Entry date 11/05/96]

11/4/96 12 OBJECTIONS by pltf to motion by clefts Ward & Associates,Leo Ward, Alan E Johnson, David Daddona, Dianna M Anelli to dismiss complt against them [6-1] (2 pgs) (dh) [Entry date 11/05/963

11/5/96 13 MOTION by clefts Scottsdale Ins, Natl Casualty, Gaines & Williamson to dism

pla's cmp against them w/prej w/memo in supp (attach + g (jma) [Entry date 11/06/96] [Edit date 11/07/96]

11/5/96 14 CIS filed by clefts Scottsdale Ins Co, National Casualty Co, Seymour Gaines, and Max Williamson. Recommended Track: standard. (1 pg) (jma) [Entry date 11/06/96]

11/6/96 17 RESPONSE (Reply) by pltf to answer to complt by clefts Scottsdale Ins, Natl Casualty, Gaines & Williamson & by defts Ward & Associates, Leo Ward, Alan E Johnson, David Daddona, Dianna M Anelli & objection to dismiss purs to FRCP 12(b) [16-1], [13-1], [6-1] (2 pgs) (dh) [Entry date 11/12/96]

11/7/96 15 CIS filed by clefts Scottsdale Ins Co, National Casualty Co, Seymour Gaines, & Max Williamson Recommended Track: Standard. (2 pgs) (jam) [Entry date 11/08/96]

11/7/96 16 MOTION by clefts Scottsdale Ins, Natl Casualty, Gaines & Williamson to dism pltf's complt against them (g pgs) (jam) [Entry date 11/08/96]

11/7/96 -- MARGINAL ENTRY ORDER granting motion by deft Peter Hull for enlarg of time of 20 days to answer or otherwise defend [7-1] (issued on 11/7/96) Judge John M. Manos (dh) [Entry date 11/13/96]

11/14/96 18 RETURN OF SERVICE executed upon clefts Ward & Associates, Alan E Johnson, David Daddona, & Dianna M Anelli on 10/17/96 or 10/18/96 thru Peter Hull (4 pgs) (dh) [Entry date 11/15/96]

11/14/96 19 MOTION by pltf for lv to amend pldgs & add necessary & indispensible ptys to prove collusion between attys & judge & pltf being denied a fair & impartial trial (5 pgs) (dh) [Entry date 11/15/96]

11/14/96 20 MOTION by plLf for ct ruling on the propriety of deft Mark A. Comstock (1 pg) (dh) [Entry date 11/15/96]

11/14/96 21 MOTION by pltf to dismiss deft Peter Onyako w/out prej (1 pg) (dh) [Entry date 11/15/96]

11/14/96 22 NOTICE OF SERVICE by clefts Scottsdale Ins Co,National Casualty Co, Seymour Gaines, & Max Williamson of responses to interr upon plLf on 11/13/96 (4 pgs) (dh) [Entry date 11/15/96]

11/19/96 23 MOTION by pltf for lv to amend pldgs & addnecessary & indispensible ptys to more strongly prove collusion between attys & judges, & pltfbeing denied a fair & impartialtrial & being a victim of extortion (5 pgs)(dh)

11/19/96 24 RETURN OF SERVICE executed upon deft Peter Onysko on 11/18/96 by regular mail. (1 pg) (dh) [Entry date 11/21/96]

11/19/96 25 RETURN OF SERVICE executed upon clefts Frank J Gorman, Cuyahoga Cty CCP, & OH Eighth Appellate on 11/19/96 by, personal srv. (3 pgs) (dh) [Entry date 11/21/96]

11/19/96 26 RETURN OF SERVICE executed upon clefts Thomas J. Moyer, Stephen W Stover, & Ohio Supreme Court on 11/15/96 by UPS, receipted for-by a "Pennington" (3 pgs) (dh) [Entry date 11/21/96]

11/19/96 27 RETURN OF SERVICE executed upon clefts Alvin E Mathews, & Supreme Court Cnsl on 11/15/96 by UPS, signed for by a M.Pennington (2 pgs) (dh) [Entry date 11/21/96]

11/21/96 28 MOTION by clefts Ohio Supreme Court, Alvin E. Mathews, & Supreme Court Cnsl to dismiss complt (7 pgs) (dh) [Entry date 11/22/96]

11/25/96 29 MEMORANDUM, Rebuttal & Objection by pltf in opp to motion by clefts Ohio Supreme Court, Alvin Mathews, & Supreme Court Cnsl to dismiss compl. [28-1] (2 pgs) (dh) [Entry date 11/27/96]

12/2/96 30 MOTION by deft Hull for leave to file mot to dism and ens,instanter (ATTACHED) (3 pgs) (jma) [Entry date 12/04/96]

12/3/96 31 MOTION by dfts Frank J Gorman, Cuyahoga Cty CCP, and OH Eighth Appellate to dismiss complt (12pgs+exh) (rs) [Entry date 12/04/96]

12/3/96 32 MOTION by dfts Alan E Johnson and Peter Hull tostrike pltf's motion to amd (5pgs+exh) (rs) [Entry date 12/05/96]

12/3/96 33 ANSWER to Complaint by defendant Peter Hull; jury demand (7 pgs) (rs) [Entry date 12/05/96]

12/4/96 34 MOTION by clefts Ward & Associates for immediate ruling re the mot of clefts Ward & Associates to dismiss w/brf in supp. (8 pgs) (dh) [Entry date 12/05/96]

12/16/96 47 OBJECTIONS by pltf & rebuttal to clefts Gorman, Cuyahoga County Common Pleas Ct & 8th Appellate Ct's mot to dismiss pltf's mot to add Judge George J. McMonagle as a pty to this suit. [23-1], [19-1] (2 pgs) (dh)[Entry date 12/18/96]

12/17/96 45 NOTICE by cnsl for deft Mark A Comstock of change of address (1 pg) (dh)

12/23/96 48 MEMORANDUM (Brief) by clefts Alan E Johnson, & Peter Hull in opp to motion by pltf for lv to amend pldgs & add necessary & indispensible ptys to more strongly prove collusion between attys & judges, & pltf being denied a fair & impartial & being a victim of extortion [23-1] (4 pgs) (dh) [Entry date 12/24/96]

12/23/96 49 MOTION by deft Judge Frank J Gorman to stay discovery, & for protective order

barring pltf from commencing discovery w/memo in supp. (exh & 6 pgs) (dh) [Entry date 12/24/96]

2/27/96 50 OBJECTIONS by plLf to deft Judge Frank J Gorman's motion to stay discovery [49-1], & for protective order barring pltf from commencing alscovery LqY-(attach & 1 pg) (dh)

12/27/96 51 OBJECTIONS by pltf to Alan E. Johnson' 8 opposition to pltf's motion to amd [32-1] (2 pgs) (dh)

12/30/96 52 OBJECTIONS by pltf to deft Leo Ward's request for immediate ruling on Ward & Associate's motion to dismiss [6-1] (attach & 3 pgs) (dh) [Entry date 12/31/g6]

1/2/97 53 MOTION by pltf for lv to add additional clefts as being indispensible (attach & 3 pgs) (dh) [Entry date 01/06/97]

1/6/97 54 REPLY by clefts Thomas J Moyer, Stephen W Stover, & Ohio Supreme Court to pltf's memo in opp to motion by clefts Thomas J. Moyer, Stephen W. Stover & Ohio Supreme Court to dismiss complt [35-1] (5 pgs) (dh) [Entry date 01/07/97]

1/6/97) 55 MEMORANDUM OF OPINION granting all clefts motions to dismiss, & granting pltf's motion to dismiss deft Onyako since he was never srv the complt. [43-1] [35-1] [28-1] [21-1] [16-1] [6-1] (issued on 1/7/97) (11 pgs) Judge John M. Manos (dh) [Entry date 03/07/97]

1/6/97 56 ORDER denying motion by pltf for lv to amend pldgs [23-1], [19-1], granting motion by defts Scottsdale Ins, Natl Casualty, Gaines & Williamson to dism pla's cmp against them w/prej [13-1], granting motion by pltf for ct ruling on the propriety of deft Mark A. Comstock [20-1], granting motion to dismiss complt [31-1], & all other outstnading motions moot [32-1] [53-1], [49-1], [49-2], [21-1], [46-1], [44-1] [34-1] dismissing case (issued on 1/7/97) (1pg) Judge John M. Manos 9dh0 [Entry date 01/09/97]

1/8/97 57 MEMORANDUM by pltf (contra) in opposition to atty Singletary's opp to pltf's opp to dismiss defts Thomas J. Moyer, Stephen W. Stover & Ohio Supreme Court [35-1] (attache & 2 pgs) (dh) [Entry date 01/09/97]

1/9/97 58 NOTICE of Appeal by pltf Ivan Sawchyn re: memo of opn granting all motions to dismiss [55-1], re: order dismissing case [56-2] (cc: all counsel-notice only. USCA-notice and doc(s) mailed on 1/10/97) (1 pg) (shh) [Entry date 01/10/97]

1/9/97 — RECEIVED appeal fee in the amount of $105.00 (Receipt # 242744) (shh) [Entry date 01/10/97]

Ivan Sawchyn
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